

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

INTERWORKS UNLIMITED, INC.,)
a California Corporation,)
)
 Plaintiff,)
)
)
 VS.) CASE NO.
) 2:17-cv-4983 AB KSx
DIGITAL GADGETS, LLC;)
a New Jersey limited)
liability company,)
)
 Defendants.)
)
)
AND RELATED CROSS-ACTION.)
)
)

DEPOSITION OF
ERIC LU

Thursday, September 13, 2018

9:58 A.M.

21650 Oxnard Street
Suite 500
Woodland Hills, California 91367



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1	<p>A. Plaintiff.</p> <p>Q. Okay. I'm going to ask you questions during the course of the day. To the best of your ability, please answer my questions. To the best of your ability, when I'm asking a question, please wait for me to finish the question before you answer it, and I will do my best to not interrupt you when you're answering.</p> <p>A. Okay.</p> <p>Q. You have to answer verbally so that the court reporter can take it down. If, during the course of the examination, you wish to confer with counsel, that's fine, except I would ask you that you answer a pending question before you confer with counsel. So if we're in the middle of a question, before you speak to counsel, you should try your best to answer the question.</p> <p>Of course, if you don't understand the question, you can ask me to rephrase it. And, lastly, if during the course of the morning, you wish to take a break -- during the course of the day, I should say -- just let me know, and we'll take a break.</p> <p>A. Okay.</p> <p>Q. By whom are you currently employed?</p> <p>A. Interworks Unlimited.</p> <p>Q. And what is your position?</p> <p>A. President.</p>	<p>Q. -- of its existence?</p> <p>A. And are your offices there?</p> <p>A. Yes.</p> <p>Q. Do you know a company, Digital Gadgets, LLC?</p> <p>A. Yes.</p> <p>Q. And how do you know them?</p> <p>A. They were introduced to me by a sales -- a VP of sales at Chic.</p> <p>Q. And who is the VP of sales?</p> <p>A. Her name is Janet, last name is Lu, L-u. Not related.</p> <p>Q. And who is Chic?</p> <p>A. Chic is the manufacturer of the hoverboard.</p> <p>Q. When did this introduction take place?</p> <p>A. To my recollection, it's sometime in September or October of 2016.</p> <p>Q. And do you recall the reason for the introduction?</p> <p>A. Yes. Digital Gadgets -- Chris Mitchell, who was trying to solicit Chic for distribution in the U.S. -- we -- Interworks has the exclusive distribution. And an introduction was made between Janet and Chris, to me, for the reason that they want to sell Chic products</p>
1	<p>Q. What is the business of Interworks?</p> <p>A. Distribution.</p> <p>Q. Distribution of what?</p> <p>A. Distribution of gaming, consumer electronics, and toys.</p> <p>Q. And are you the owner of Interworks?</p> <p>A. Yes.</p> <p>Q. Are there any other owners?</p> <p>A. No.</p> <p>Q. How many employees does Interworks have?</p> <p>A. Nine.</p> <p>Q. Is Tony Tu one of your employees?</p> <p>A. Yes.</p> <p>Q. What's his position?</p> <p>A. He's the accounts executive.</p> <p>Q. And what are his duties and responsibilities?</p> <p>A. His duties are to assist me to process -- to communicate with our clients, customers, and our vendors.</p> <p>Q. How long has Interworks been in business?</p> <p>A. Almost ten years.</p> <p>Q. Where is Interworks located?</p> <p>A. Interworks is located at 2418 Peck Road, City of Industry, California 90601.</p> <p>Q. Has it been at that location for the ten</p>	<p>in the United States. And that's the reason for the introduction, is they can buy directly from us because we're the distributor -- the exclusive distributor.</p> <p>Q. So Mr. Mitchell had made inquiry of Chic to acquire product from them --</p> <p>A. Correct.</p> <p>Q. -- and Ms. Lu advised Mr. Mitchell that Interworks was the exclusive distributor, and therefore put the two of you together?</p> <p>A. Correct.</p> <p>Q. Now, at the time of this introduction, what was the business relationship between Chic and Interworks?</p> <p>What were you the exclusive distributors of?</p> <p>A. Exclusive distributors for their hoverboards.</p> <p>Q. Do they make a product besides hoverboards?</p> <p>A. Solely hoverboards.</p> <p>Q. And was the exclusivity that you had, was that in a writing?</p> <p>A. Yes.</p> <p>Q. Has that writing been produced in this lawsuit?</p> <p>A. I'm not sure.</p> <p>MR. LAZARUS: I'd call for the production of the exclusivity agreement.</p> <p>Q. When did Interworks and Chic enter into the exclusivity agreement?</p>

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1 A. Sometime in 2015. 2 Q. Prior to the exclusivity arrangement, were you 3 doing business with Chic? 4 A. Yes, we were. 5 Q. And the prior business consisted of purchasing 6 hoverboards? 7 A. Correct. 8 Q. And how long had that prior business gone on? 9 A. Probably for about a year. 10 Q. Tell me, please, how it came to pass that the 11 arrangement became an exclusive. 12 A. Well, for a business relationship, you know, we 13 sold their product. They needed a distributor for the 14 U.S. channel. And we had the retail channels; so, you 15 know, that's kind of how it came about. 16 Q. They had no other distributor in the U.S.? 17 A. At that time, no. 18 Q. Did they propose the exclusive arrangement, or 19 did you? 20 A. I think it was mutual. 21 Q. In your earlier answer, you used the 22 expression, "we had the retail channels." 23 What does that mean? 24 A. Retail channels is your retail stores in the 25 United States. You know, big-bucks stores. Your -- you	1 (Whereupon, the record was read back 2 by the Court Reporter as follows: 3 "Q. Prior to the exclusivity 4 arrangement, had you made sales of 5 hoverboards to QVC?" 6 THE WITNESS: No. 7 BY MR. LAZARUS: 8 Q. To whom had you made sales? 9 A. Again, that's a trade secret. I -- 10 Q. What's secret about it? 11 A. Because Digital Gadgets is a competitor, and 12 they have all rights to get the information from who I'm 13 selling to so they can attempt to solicit my accounts. 14 So for that reason, I don't think that I should disclose 15 any of the retail accounts. I mean, if you can figure 16 what the retail accounts are, you know, it's what is out 17 there. It's retailers. 18 Q. Okay. So exactly why it's not confidential or 19 secret. 20 So which retailers was it? 21 A. It's secret in who is selling hoverboards. I 22 don't want to disclose that. 23 Q. Okay. So on your counsel's instruction, you're 24 refusing to disclose your customer base for hoverboards; 25 is that correct?	
	Page 11	Page 13
1 know, your Wal-Mart, Target, your Best Buy, Toys "R" Us. 2 You know, big-bucks retailers. 3 Q. When you say "We had the retail channels," what 4 do you mean? 5 A. That means we sell to the retail channels. 6 Q. Okay. Did you have any exclusivity arrangement 7 with any retailer? 8 A. No. 9 Q. Prior to the exclusivity arrangement, had you 10 sold hoverboards to the retail channel? 11 A. Yes. 12 Q. To whom did you make those sales? 13 MR. HSU: Hold on. 14 Objection. Trade secrets. Not reasonably 15 calculated to lead to any admissible evidence. 16 Where are we going? 17 BY MR. LAZARUS: 18 Q. Okay. Just answer the question. 19 MR. HSU: I instruct the witness not to answer. 20 MR. LAZARUS: Okay. Mark that, and I will seek 21 sanctions. 22 Q. Prior to the exclusivity arrangement, had you 23 made sales of hoverboards to QVC? 24 A. Can you repeat that question? 25 MR. LAZARUS: Could you read the question back.	1 A. That's correct. 2 MR. HSU: I reiterate my objection and 3 instruction. Thank you. 4 MR. LAZARUS: And your objection is it's a 5 secret? 6 MR. HSU: Trade secret. Without a protective 7 order, you're not going to get it. And I offered you. 8 THE REPORTER: I'm sorry? 9 MR. HSU: "And I offered you." 10 MR. LAZARUS: Don't try to justify your 11 misconduct. 12 MR. HSU: You can say whatever you want. 13 MR. LAZARUS: I will say whatever I want. 14 Thank you. 15 MR. HSU: It's your deposition. 16 MR. LAZARUS: It is my deposition. 17 Q. For what period of time prior to the 18 exclusivity arrangement had you sold hoverboards to QVC? 19 A. Did you say "prior to the exclusivity"?20 Q. Yes, sir, that's what I said. 21 A. I did not sell hoverboards to QVC. 22 Q. Okay. So after -- the first sales by 23 Interworks, to QVC, of hoverboards came after you 24 entered into the exclusivity arrangement? 25 A. Correct.	

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1 **Q.** Okay. And how many units did you sell?
2 **A.** Roughly, off my head (verbatim), about 10,000.
3 **Q.** Over what period of time?
4 **A.** Of a one-month period.
5 **Q.** What month?
6 **A.** The month of November.
7 **Q.** What year?
8 **A.** 2016.
9 **Q.** And what model hoverboard did you sell?
10 **A.** It's the High Roller Model C.
11 **Q.** Prior to selling hoverboards to QVC, had you --
12 Interworks made sales of products to QVC?
13 **A.** No.
14 **Q.** Who introduced you to QVC?
15 **A.** I contacted QVC.
16 **Q.** And when did you do that?
17 **A.** Around April of 2016.
18 **Q.** And who did you contact?
19 **A.** The buyer, Meghan Kane.
20 **Q.** And between April of 2016 and November of 2016,
21 how did it develop that you were able to sell
22 10,000 units to QVC?
23 **A.** Well, we made our sales pitch. We presented
24 our product. And Chic has the patent for the
25 hoverboard; so at that point, QVC decided to bring it on

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1 board.
2 **Q.** At what point?
3 **A.** What's that?
4 **Q.** At what point did they decide to bring in your
5 board?
6 **A.** I would say somewhere around June -- June, July
7 time frame.
8 **Q.** And from June to November, what happened?
9 **A.** Can you rephrase that?
10 "What happened"? What do you mean, "what
11 happened"? I'm not understanding the question.
12 **Q.** Well, if they decided to bring them in in June,
13 and the first sales were in November, what happened in
14 the period between June and November relative to those
15 sales?
16 **A.** Well, between the time between June and
17 November, when they needed the goods, they -- as a
18 buyer, they have to plan when they're going to air it
19 because, as you know, QVC is not a -- QVC is not a
20 retail store. So they have to book an airing time. And
21 during that process, they're setting up for the
22 holidays. So they're going to -- you know, we discuss
23 the product, then they gave us airing time when they
24 needed to deliver the goods and when they're going to do
25 the airing. So...

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1 **Q.** And they told you that the airing would be
2 approximately November of 2016?
3 **A.** Right.
4 **Q.** Okay. When did you take in the -- withdrawn.
5 Did you physically receive the hoverboards from
6 Chic?
7 **A.** Well, the goods came in late October, beginning
8 of November. And products came in in sequence. It's
9 coming in containers. It's a large volume; so it's many
10 containers that come in. So around that period of time,
11 products are flowing in.
12 **Q.** In the fall of 2016, sometime in October?
13 **A.** Right.
14 **Q.** And where did they come into?
15 **A.** The Long Beach port and then to my warehouse.
16 **Q.** Okay. Where is your warehouse?
17 **A.** 2418 Peck Road.
18 **Q.** And did you take in 10,000 pieces from Chic,
19 approximately?
20 **A.** Yes.
21 **Q.** And were all 10,000 of those sold to QVC?
22 **A.** Yes.
23 **Q.** Other than -- other than those 10,000 pieces,
24 and in the period of calendar year 2016, had you taken
25 in any other hoverboards for any other customer?

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1 **A.** Yes.
2 **Q.** Okay. And how many pieces did you sell?
3 **A.** Probably in the range of another, give or take,
4 10,000.
5 **Q.** And was that before or after you took in the
6 pieces for QVC?
7 **A.** Before.
8 **Q.** And after you took in the 10,000 pieces to --
9 for QVC, did you ever again take in hoverboards for sale
10 to QVC -- for Interworks sale to QVC?
11 **A.** Yes.
12 **Q.** When?
13 **A.** Like I said, products were coming in from --
14 you know, coming in for the holidays. So there needs to
15 be replenishment. So there were goods coming in
16 through -- every month, there's goods coming in.
17 (Interruption in proceedings due to cell
18 phone.)
19 MR. LAZARUS: Excuse me.
20 Yeah? I am. You're --
21 THE WITNESS: You have to type that. He didn't
22 say "Off the record."
23 THE REPORTER: I can do my job, thank you.
24 BY MR. LAZARUS:
25 **Q.** I'm sorry.

1 After the 10,000 pieces were taken in, were 2 they delivered to QVC? 3 A. Which 10,000? Before or the after? 4 I told you, there's before QVC and after -- 5 after I shipped 10,000 QVC items. So -- so before or 6 after? 7 Q. Okay. You said you took in 10,000 pieces for 8 QVC in October. 9 A. Right. Right. 10 Then, after, there's a continuation of products 11 coming in. 12 Q. Okay. Were all 10,000 pieces shipped to QVC? 13 A. Yes. 14 Q. Were they shipped, or were they called out by 15 QVC customers -- 16 A. They were shipped to QVC. 17 Q. Okay. The subsequent pieces, over what period 18 of time would you make those shipments? 19 A. Well, the remaining -- the flow of products 20 that's coming in, those are for our other customers, for 21 reorders and for the holidays. So, you know, there's 22 always a flow of products coming in. It's not 10,000 23 for QVC and you stop. There's a flow of products. 24 Q. Okay. But I asked you about QVC. 25 When did you next ship goods to QVC after the	Page 18	1 Q. Where were they delivered? 2 A. They were delivered to the Phoenix distribution 3 in Santa Fe, which is Digital Gadgets's third-party 4 warehouse logistics company. 5 Q. And if you know, after delivery to Phoenix, 6 where did those goods next go? 7 A. Those goods, to my understanding, should be for 8 QVC's customers. 9 Q. Do you mean to say that they were shipped out 10 of the Phoenix warehouse, to your understanding, direct 11 to the QVC customer? 12 A. Correct. 13 Q. Now, in what manner -- withdrawn. 14 What is the reason that that was an expedited 15 manner of doing business? 16 How did you save time? 17 A. Well, saving time is -- the transit time from 18 our warehouse to -- to QVC's DC takes about seven days. 19 Okay? And for QVC to receive the goods and prepare the 20 goods to ship, I don't know how long that's going to 21 take. Okay? So with the drop-ship, they can 22 immediately ship directly to the consumer versus going 23 to the DC -- to the distribution center and the 24 distribution center out to that consumer. 25 And, again, the reason that we did the	Page 20
1 10,000 pieces? 2 A. After we shipped the 10,000 pieces to QVC, the 3 next shipment, we actually went through Digital Gadgets. 4 Q. What does that mean, "we went through 5 Digital Gadgets"? 6 A. So Interworks sells directly to QVC, to their 7 direct DC vendor. Digital Gadgets is a drop-ship 8 vendor. And due to the timing and the holidays, QVC 9 needed more products and the timing for us to ship to 10 the DC for the airing out to the customers, and the 11 timing didn't work out. So that's where Digital Gadgets 12 came in and asked to work together to do the online side 13 or the drop-ship side. So we sold Digital Gadgets goods 14 so that they can be the drop-ship vendor for QVC. 15 Q. The goods -- the 10,000 pieces that Interworks 16 sold to QVC were delivered to the QVC distribution 17 center? 18 A. Correct. 19 Q. And they were billed to QVC by Interworks? 20 A. Correct. 21 Q. The drop-ship goods that you're referring to 22 were delivered -- withdrawn. 23 Were the drop-ship goods that you referred to 24 delivered to the DC? 25 A. No.	Page 19	1 drop-ship is because it's a timing and it's 2 Christmastime, and so people want their gifts before 3 Christmas. 4 Q. You will recall that you answered, a minute or 5 two ago, when I was asking you about the shipments -- 6 after the 10,000 units, when your next shipments were to 7 QVC, and your answer was that the next shipment was 8 actually through Digital Gadgets. 9 Do you recall that? 10 A. Mm-hmm. 11 Q. Okay. So was there an agreement, between you 12 and Digital Gadgets, pertaining to the sale and delivery 13 of hoverboard units, by Digital, to QVC, at the time 14 that you made the sale to Digital Gadgets? 15 A. When you refer to "agreement," do you -- are 16 you referring to a contract, or are you referring to a 17 PO? What are you referring to, "agreement"?	Page 21

1 Q. The Digital Gadgets PO? 2 A. Correct. Digital Gadgets's PO. 3 Q. Okay. However, again, referring to your 4 earlier answer, you stated that your next shipment to 5 QVC went through Digital Gadgets -- 6 A. Correct. 7 Q. Do you recall that? 8 -- so when Digital Gadgets purchased those 9 goods from Interworks, was it your understanding that 10 Digital Gadgets would deliver those units to QVC? 11 A. That's correct. 12 Q. And how many units were -- were subject of this 13 agreement? 14 A. 4,800 pieces for the first order. 15 Q. First quarter of what year? 16 A. No. First order. 17 Q. I'm sorry. First order. Okay. 18 And what model was that? 19 A. Model C. 20 Q. Now -- 21 A. And a second order of 5,800 pieces. 22 Q. And timing-wise, when was the 4,800-piece order 23 placed? 24 A. 4,800-piece order was placed roughly around 25 beginning of December.	Page 22	1 Q. Now, the units for the first order, when -- 2 when that order was placed by Digital Gadgets, did 3 Interworks have those units in inventory? 4 A. Yes. 5 Q. How about when the second order came? 6 A. Yes. 7 Q. And when -- when did you acquire those units? 8 A. Again, it's between November through December. 9 The whole -- products come on a container load. And 10 there's 2,400 per container; so they come on a weekly 11 basis. 12 Q. Were they -- did they arrive at the same time 13 as the 10,000 pieces that you shipped to the QVC drop 14 center? 15 A. No. They come two or three containers per 16 week. So in sequence, they come, you know, on the -- on 17 a week-to-week basis. Not in one shot, the 10,000, but, 18 you know, little by little they trickle in. 19 Q. Am I correct that the 10,000 pieces that you 20 sold to QVC arrived contemporaneous with the 21 4,800 pieces that ultimately went through 22 Digital Gadgets? 23 A. Can you repeat that question? 24 Q. Let me try again. Did you -- 25 A. Yeah.	Page 24
1 Q. And the 5,800-piece order? 2 A. 5,800 pieces was around early January. 3 Q. Now, prior to the placement of those orders -- 4 and, by the way, I want to be clear. 5 Those were Digital Gadgets orders to 6 Interworks; correct? 7 A. Correct. 8 Q. Okay. Prior to the placement of those orders, 9 by Digital Gadgets, with Interworks, had you spoken to 10 QVC concerning the routing of these goods through 11 Digital Gadgets? 12 A. Yes. 13 Q. With whom did you speak? 14 A. Again with Meghan Kane. 15 Q. Tell me what those conversations were. 16 A. The conversations were, "How can we expedite 17 more products?" "How can we sell and push more units 18 for the holidays?" 19 And the solution was to use a drop-ship vendor. 20 Q. And that was Digital Gadgets? 21 A. So -- Digital Gadgets. Correct. 22 Q. And that's the earlier story you told me about 23 the introduction? That's the reason for the 24 introduction? 25 A. Correct.	Page 23	1 Q. Did these -- did you buy 10,000 pieces for drop 2 for your shipment to the QVC DC, and then buy 3 4,800 pieces for Digital Gadgets to drop-ship? 4 (Verbatim.) 5 A. No. We bought -- we bought 20,000 units -- 6 Q. Okay. 7 A. -- from the factory. And the units that come 8 in, we allocate 10,000 to QVC, which they committed to; 9 and then whatever that QVC wanted additionally for the 10 drop-ship, that's what Digital Gadgets ordered. 11 Q. Okay. And is there a piece of paper from 12 Interworks, to Chic, that is an order for 20,000 units 13 of hoverboards -- these 20,000? 14 A. You mean like a PO? 15 Q. Yes, sir. 16 A. Of course. 17 Q. Okay. And do you, Interworks, maintain a copy 18 of that PO? 19 A. Of course. 20 MR. LAZARUS: I call for the production of that 21 purchase order, which I don't think has been produced. 22 THE WITNESS: But again, Roger, with this is 23 this is a trade secret, also, because that's my factory. 24 And this document -- I mean, this document has all the 25 information -- costs and -- you know, the factory	Page 25

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1 information. And I don't want this disclosed because --
2 BY MR. LAZARUS:
3 Q. I'm not interested in -- I understand what
4 you're saying. I don't need the explanation. You don't
5 want to produce it. I will take it up with the court
6 down the road. I don't need the explanation.

7 MR. HSU: Yeah. When the request is being
8 made, we can respond to it.

9 MR. LAZARUS: The request is being made now,
10 and I will put it in writing when I get the transcript.
11 But I do want to go on record. I want the PO -- or POs
12 from Interworks, to Chic, for these -- for these
13 hoverboards.

14 Q. Now, when the hoverboards -- these
15 20,000 pieces arrived, were they all received at the
16 Interworks warehouse?

17 A. Yes.

18 Q. And the approximately 10,000 pieces were
19 drop-shipped to -- pardon me -- were -- withdrawn.

20 10,000 pieces, approximately, were shipped to
21 the QVC distribution center, and another 10,000 over
22 time, approximately, went to the Phoenix warehouse for
23 Digital Gadgets?

24 A. Correct.

25 Q. Was there one PO to Chic, from Interworks, for

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1 these 20,000 pieces, or more than one?

2 A. Through the year or...? I mean --

3 Q. These 20,000 pieces that we've been talking
4 about.

5 A. I don't remember how many POs. But it could be
6 one; it could be two.

7 Q. Okay. And what was ordered on the POs?

8 A. The Model C hoverboards.

9 Q. And the Model C hoverboards that were shipped
10 to the QVC distribution center, were they from the same
11 POs that were shipped by Interworks to -- to Phoenix,
12 the warehouse for Digital Gadgets?

13 A. Yes.

14 Q. So that the hoverboards that went from
15 Interworks to QVC should have been identical to the
16 hoverboards that went from Digital to -- drop-shipped to
17 QVC's customers?

18 A. Yes.

19 Q. And when -- withdrawn.

20 Of the nine employees that Interworks has, were
21 they all there in calendar year 2016 and '17?

22 A. I believe so.

23 Q. And how many of those employees were at the
24 warehouse or worked at the warehouse?

25 A. So when you say "worked at the warehouse," are

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1 you referring to working in the pick-and-pack, or are
2 you talking about working in the office?
3 I mean -- you know, the question is kind of
4 vague. Like, you know, working in the warehouse -- my
5 employees who do processing don't really work in the
6 warehouse.

7 Q. Then you answered the question.

8 A. Yeah.

9 Q. How many work in the warehouse?

10 A. About three, four.

11 Q. Okay. And how many work in the office
12 associated with the warehouse?

13 A. About five.

14 Q. Is Mr. Tu one of those?

15 A. He's one of the five.

16 Q. Do the four warehouse workers have different
17 duties from one another?

18 A. No.

19 Q. Okay. What do they do? What do they do when
20 goods are received?

21 A. They unload containers, pick-and-pack.

22 Q. So our record is clear, when you say
23 "pick-and-pack," what does that mean?

24 A. That means they take the product, label the
25 product with the shipping information, and get it ready

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1 and prepare to ship.

2 Q. And in the ordinary course, do they inspect the
3 received units?

4 A. They do not inspect goods.

5 Q. Why not?

6 A. Well, let me rephrase that.

7 When you talk about "inspect the goods" -- so
8 are you talking about opening the boxes and looking into
9 the products and inspecting the products, or are you
10 talking about making sure that the boxes are not damaged
11 from the outside?

12 Q. Okay. Whichever one you want.

13 Do they inspect the goods or not?

14 A. Well, they do inspect the goods, looking --
15 making sure that the product is not damaged from the
16 outside.

17 Q. So they don't open the box?

18 A. They do not open the box. However, we do do
19 spot checks. So what we do is Tony -- he goes out there
20 and opens certain boxes, turn it on, turn it off to test
21 the products. (Verbatim.) And after that is done, then
22 everything goes out.

23 Q. Do you know that Mr. Tony Tu did that with
24 respect to the hoverboards that were delivered, by
25 Interworks, to Digital Gadgets?

	Page 30	Page 32
1	A. Yeah, he did do the inspection.	1 products arrived at your warehouse, what paperwork came
2	Q. How do you know?	2 with the hoverboards?
3	A. Because he inspects the product. That's part	3 A. That would be standard bill of lading. And I
4	of his job.	4 believe the -- the performer invoices from -- from
5	Q. Okay. But do you know that he inspected these	5 the -- from the factory that comes along with the bill
6	goods?	6 of lading.
7	A. Yes.	7 Q. Now, prior to the 20,000 pieces that we're
8	Q. How do you know that?	8 talking about arriving at the Interworks warehouse, and
9	A. Because he -- he communicated with	9 in the process of Interworks making sales to QVC, did
10	Digital Gadgets that, you know, the products that went	10 Interworks supply product specifications to QVC for
11	out -- (inaudible) his inspections.	11 these hoverboards?
12	MR. LAZARUS: Could you repeat the --	12 A. Yes.
13	THE REPORTER: Did you say "passed his	13 Q. Okay. And how do you know that that happened?
14	inspections"?	14 A. Well, that's -- that's a requirement for
15	THE WITNESS: Huh?	15 documentations that they request and that we submitted
16	THE REPORTER: "Because he -- he communicated	16 to them.
17	with Digital Gadgets that, you know, the products that	17 Q. What are those documentations?
18	went out" --	18 A. The UL certifications and patent. And I
19	Did you say "passed his inspection"? Is that	19 think -- I think those are the two major ones that we
20	what you said?	20 have submitted to them.
21	THE WITNESS: "Passed inspection"?	21 Q. Do you know if third-party test reports were
22	THE REPORTER: I'm asking you.	22 submitted?
23	THE WITNESS: Oh, okay.	23 A. I believe so.
24	Yeah, make sure that the products are spot	24 Q. And who at Interworks was tasked with sending
25	checked and tested, and make sure they're good.	25 those documents for the --
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1	BY MR. LAZARUS:	1 A. Tony sent those documents.
2	Q. So how do you know he did this?	2 Q. Did Tony set up the hoverboard product on the
3	A. How do I know he did that?	3 QVC vendor portal?
4	Well, that's part of his job. I mean, I don't	4 A. Yes.
5	know if did he it or not, but he -- that's -- he claimed	5 Q. What does that mean? What did he do?
6	that he did. He said that he did. And that's part of	6 A. So I don't handle that aspect. Okay? So what
7	his job. And that's not only for QVC. That's for every	7 that means is -- to my knowledge, is putting up the
8	customer that we ship the products to.	8 vendor number, the UPC number, you know, the cost.
9	One thing is -- that we do clearly is, when the	9 Basic setup information.
10	goods come in, instead of having the guys that did the	10 Q. Okay. And do you know if QVC has a process
11	pick-and-pack, I have Tony, which is a more knowledge	11 whereby they pass or fail proposed products?
12	and detailed person, inspect the product.	12 A. I think so.
13	Q. And the inspection that you referred to was he	13 Q. Are you a participant, you personally, in that
14	opened boxes and turned the product on and off?	14 process?
15	A. Right. Testing the product if everything is	15 A. No, I'm not.
16	functioning correctly.	16 Q. Who is?
17	Q. Which means turning it on and turning it off?	17 A. Tony was the one who did the processing.
18	A. Turning it on, making sure the wheels spin	18 Q. Okay. Does Tony -- was it Tony's job to
19	and -- you know, that's a typical test that we do.	19 physically send a hoverboard to QVC for their
20	Q. Do you keep records of those tests?	20 inspection?
21	A. We don't have records of those tests.	21 A. Yes.
22	Q. Do you know if Mr. Tony Tu kept records of his	22 Q. And do you know how many hoverboards were sent
23	testing?	23 to QVC for QVC's approval before delivery of the
24	A. I don't think he -- we keep testing records.	24 10,000 pieces by Interworks?
25	Q. Now, when the products arrive -- the hoverboard	25 A. I'm not -- I'm not sure how many pieces they

	Page 38	Page 40
1	that correct?	1 A. Conforming, meaning that the specs that they
2	A. That's correct.	2 have in the patent and how they made this product, all
3	MR. LAZARUS: Did you keep your exhibits? You	3 the components, all the ICs, are per the specs of the
4	don't have to --	4 creator of the product.
5	THE REPORTER: There are a lot of papers; so	5 Q. Okay. And the specs that you are referring to
6	let's not get them mixed up.	6 were specs that were approved by QVC?
7	MR. LAZARUS: Okay. With that in mind, if	7 A. Well, yes.
8	you'll just take out Tu 10.	8 Q. Okay. And so the products that were delivered
9	Q. Have you ever seen Tu 10 before?	9 by Interworks, to Digital Gadgets, were conforming to
10	A. I don't remember seeing this.	10 the QVC specs?
11	Q. You do know that Interworks has commenced an	11 A. Yes.
12	action against Digital Gadgets; correct?	12 Q. Do you know that?
13	A. Correct.	13 A. I know that.
14	Q. And do you see that this document, Tu 10, is	14 Q. How do you know that?
15	titled, on the first page, the right side, "Complaint	15 A. I know that because the shipments that came in
16	for Breach of Contract," and it continues?	16 from Chic -- I know that the qualities -- are a good
17	A. What page?	17 quality product, and the fact that we did do our due
18	MR. HSU: The first page.	18 diligence of spot checking the products. And products
19	THE WITNESS: Okay.	19 that went out to Digital Gadgets had no issues.
20	BY MR. LAZARUS:	20 Q. Okay. So you're assuming that they were the
21	Q. Okay. Have you ever seen this document before?	21 same because you followed a course of conduct that you
22	And feel free to look through it.	22 typically follow with respect to the receipt and
23	A. Yes. This one -- this one, yes. I thought	23 delivery of goods?
24	this was a Tony file. So -- okay. Yes.	24 A. Correct.
25	Q. Okay. So you have seen this before?	25 Q. Now, when -- withdrawn.
	Page 39	Page 41
1	A. Yes.	1 Q. Do you know how big a factory Chic is?
2	Q. Okay. I want you to look at Paragraph 9 of the	2 A. They're -- they're a big factory.
3	complaint, at Page 4, which says that -- "Even though	3 Q. Okay. Do you know how many workers they have?
4	the hoverboards were conforming and accepted, defendant	4 A. At least 100-something, plus.
5	has failed to fully pay for these orders."	5 Q. 100 or --
6	Do you see that?	6 A. I never counted how many they have. But, you
7	A. Mm-hmm.	7 know, I would say there are 100-plus.
8	Q. How do you know the hoverboards were	8 Q. And do you know how many hoverboards they
9	conforming?	9 produced annually in 2016?
10	A. Again, the hoverboards were made by the	10 A. That, I do not know.
11	original creator of this product. Okay? The specs, the	11 Q. Do you know whether Chic, in 2016, continually
12	quality control -- it is the best quality hoverboard in	12 manufactured hoverboards?
13	the market. Okay?	13 A. Yes.
14	In China, the factories -- I've inspected the	14 Q. Yes, they did?
15	factory, seen the quality of the product. So when the	15 A. Yes, they did.
16	products come in, when we do our spot check, it	16 Q. Do you know whether the hoverboards that you
17	determines how many units turn on or don't turn on.	17 purchased from Chic in 2016 -- do you know whether they
18	That's what we're trying to determine. That's the only	18 were all from the same production run?
19	way that we can determine that these goods are good or	19 A. That, I'm not sure. Okay? So I am assuming
20	bad. Okay? There's no other way. If we open the	20 that, you know, it's all from the one factory.
21	product, that voids the contract -- or voids the	21 Q. You're assuming that it's all from one factory,
22	warranty.	22 but you do not know if it's all from one production
23	Q. Now, when it says here at Paragraph 9, "Even	23 line?
24	though the hoverboards were conforming," what do you	24 A. I assume that, when I PO to Chic, it's coming
25	understand the reference to -- "conforming" to mean?	25 from Chic.

<p>1 Q. Okay. But do you know if the units you 2 purchased from Chic were manufactured by Chic all at the 3 same time?</p> <p>4 A. To my understanding, yes.</p> <p>5 Q. Do you know what a "lot" is?</p> <p>6 A. I know what a "lot" is.</p> <p>7 Q. What is a "lot"?</p> <p>8 A. A "lot" is what they produce in a group, what 9 goes out.</p> <p>10 Q. Were these goods -- I'm sorry. 11 Were the goods received by Interworks in the 12 fall of 2016 from one lot or more than one lot?</p> <p>13 A. Again, we PO for 20,000 pieces. And what we 14 receive should be from one lot.</p> <p>15 Q. Why do you say it should be from one lot?</p> <p>16 A. Or it is from one lot.</p> <p>17 Q. How do you know?</p> <p>18 A. I don't know.</p> <p>19 Q. And do you know that -- or do you know if, in 20 the course of manufacturing consumer electronic 21 products, there's a variation, from time to time, in the 22 product of goods from lot to lot?</p> <p>23 A. I'm a distributor. So I'm not a manufacturer.</p> <p>24 So I'm not very familiar with that.</p> <p>25 Q. And you don't check for it?</p>	Page 42	Page 44
<p>1 A. I look at, I visit the factory. I see the 2 production line. And from what is proven and shown to 3 me at the factory, I have all reason to believe that 4 these are high-quality goods. They've presented the 5 patent. So, you know, the -- my understanding, these 6 are the superior products, compared to what's in the 7 market.</p> <p>8 Q. Referring again to Paragraph 9, "Even though 9 the hoverboards were conforming and accepted" -- what do 10 you mean when you say they were accepted?</p> <p>11 A. They're accepted because, again, the products 12 are from Chic. And they have the patent to support 13 their product, and they have the quality control to 14 support their product.</p> <p>15 Q. But what do you mean, they were -- these 16 hoverboards were accepted?</p> <p>17 MR. HSU: Objection. Calls for a legal 18 conclusion. And calls for speculation.</p> <p>19 MR. LAZARUS: Okay. No speaking objections. 20 The witness can answer.</p> <p>21 MR. HSU: That's not a speaking objection.</p> <p>22 MR. LAZARUS: That's a speaking objection.</p> <p>23 MR. HSU: That's my document, not his document. 24 How --</p> <p>25 MR. LAZARUS: It's a speaking objection and --</p>	Page 43	Page 45

<p style="text-align: right;">Page 54</p> <p>1 would pass the quality control inspection in industry 2 standard -- the QC control is done on the factory level, 3 which is the manufacturer, which is Chic. So the 4 products that we received and the products that we sell 5 are warranted by Chic, which is a factory. So this 6 statement here, this clause here is really incorrect. 7 Q. It's incorrect? 8 A. Yes, because we're not the manufacturer. 9 Q. Okay. So are you -- is it your testimony that 10 you did not warrant to Digital Gadgets that the goods 11 would pass QVC quality control? 12 A. Well, we -- we don't warrant the goods because 13 that's the manufacturer's job. So if there is a problem 14 with the product, it would be returned back to the 15 factory for credit. Okay? So it's not our 16 responsibility, because we're a distributor and not the 17 manufacturer; so we don't warrant the goods. 18 Q. Well, DG could not have returned the goods to 19 Chic for credit because they weren't billed by Chic. 20 A. But DG has -- when -- we've requested DG to 21 ship the goods back to us, but they refused. 22 Q. But that's not my question. My -- 23 A. But that's my answer to -- 24 Q. My question is that DG had no contract with 25 Chic and, therefore, could not have returned the goods</p>	<p style="text-align: right;">Page 56</p> <p>1 Q. I want you to look, please, at Paragraph -- 2 withdrawn. 3 I want you to look, please, at Lu 2, and 4 specifically at Page Number 6. I apologize. Page 5 Number 5. 6 Do you see there's a Paragraph 44 there? 7 A. Mm-hmm. 8 Q. And if I told you that each paragraph of the -- 9 your answer corresponds to a similarly numbered 10 paragraph of the complaint, would you agree? 11 A. Not understanding the question. 12 Q. Okay. Well, do you see Paragraph 44 of the 13 third counterclaim, which is the one that we were 14 looking at? 15 A. The first counter -- the first one? 16 Q. Third counterclaim, Page 7. 17 A. Okay. 18 Q. And that's the paragraph we just looked at. 19 Do you see that? 20 A. Mm-hmm. 21 Q. And do you see that that's the one where 22 Interworks warrants the quality -- would pass quality 23 control inspection and industry standards? Do you see 24 that? 25 A. Right.</p>
<p style="text-align: right;">Page 55</p> <p>1 to Chic for credit because they didn't buy them from 2 Chic. 3 A. But they could have returned it back to us, and 4 we would have returned it back to the factory. 5 Q. Because you were their supplier? 6 A. Correct. 7 Q. Okay. And the question, however, that led us 8 down this path was, did you, Interworks, warrant the 9 quality of these goods to Digital Gadgets? 10 A. So the factory warrants the products to 11 Interworks, which -- we warrant the product to 12 Digital Gadgets. So should Digital Gadgets have any 13 issues with the quality, it would be a -- it should be 14 returned back to us, and then we would pass it back to 15 the factory. 16 However, Digital Gadgets never paid for the 17 goods; so I don't know how it can credit them for the 18 goods. 19 Q. Did you tell Digital Gadgets that the goods 20 would pass QVC quality control? 21 A. Well, that's the only way we can sell to QVC, 22 is to pass the QVC quality control. 23 Q. So you told DG that these goods would pass QVC 24 quality control? 25 A. Correct.</p>	<p style="text-align: right;">Page 57</p> <p>1 Q. And do you see, at Paragraph 44 of the answer, 2 Interworks admits that? 3 A. That it passed the quality control? 4 Q. You admit that it would pass the quality 5 control? 6 A. Correct. 7 Q. And you admit that it would pass the quality 8 control of QVC? 9 A. Yes. 10 MR. LAZARUS: Okay. I'd like to have marked as 11 the next exhibit, which would be Lu 3, an e-mail chain 12 consisting of two pages, the first of which is an e-mail 13 from Chris Mitchell to Eric, the next is an e-mail from 14 Eric to Chris Mitchell, and the next is from 15 Chris Mitchell to Eric. It's dated June 7th, the 16 Chris Mitchell e-mail, at the top; and June 6th is below 17 that. 18 (Defendant/Counter-Claimant's Exhibit 19 Lu 3 was marked for identification by 20 the Court Reporter, and a copy is 21 attached hereto.) 22 BY MR. LAZARUS: 23 Q. If you'll take a minute to look at these 24 e-mails. 25 A. Okay.</p>

<p>1 Chic. I will issue an RA tomorrow. I 2 could only provide you with the documents 3 that I have which are provided from Chic, 4 and those are the documents that I provided 5 to you. And what they gave me is also what 6 I have provided to QVC the first time 7 around. If there's QA submission issues, 8 please send me the reports, and I can have 9 Chic provide the documents to me." 10 Do you see that?</p> <p>11 A. Mm-hmm.</p> <p>12 Q. Did Mr. Mitchell ever submit the submissions to 13 you?</p> <p>14 A. I don't recall.</p> <p>15 Q. Okay. But you do know -- or you did see 16 Ms. Kane's e-mail, where they were trying to contact you 17 relative to these products, and Ms. Kane maintains that 18 you refused to cooperate.</p> <p>19 You saw that; right?</p> <p>20 A. Again, this is not CC'd to me; so I -- I'm not 21 aware of that. Okay? I don't have any e-mails of them 22 sending me requests of that.</p> <p>23 MR. LAZARUS: Okay. It's a quarter after 24 12:00.</p> <p>25 MR. HSU: You want to take an hour?</p>	Page 78	Page 80
<p>1 MR. LAZARUS: Yeah.</p> <p>2 MR. HSU: Okay.</p> <p>3 (Lunch recess taken at 12:14 P.M.)</p> <p>4 (Proceedings resumed at 1:15 P.M.)</p> <p>5 BY MR. LAZARUS:</p> <p>6 Q. Mr. Lu, good afternoon.</p> <p>7 Did you ever discuss the possibility of 8 entering into an exclusive arrangement with 9 Digital Gadgets for the hoverboard?</p> <p>10 A. It was brought to me. It was asked on behalf 11 of Digital Gadgets. It was never confirmed. And it was 12 never said that we would go into exclusivity, but it was 13 something that they wanted.</p> <p>14 Q. When you say, "it was something that they 15 wanted," with whom did you discuss exclusivity?</p> <p>16 A. This was with Chris Mitchell and Chris Tebele.</p> <p>17 Q. And did you discuss it with them via e-mail, in 18 person, or by phone, or all of them?</p> <p>19 A. All of them.</p> <p>20 Q. And did you discuss exclusivity with Mr. Tebele 21 in person?</p> <p>22 A. It was asked for exclusivity, by Mr. Tebele, 23 during the CES meeting that we had.</p> <p>24 Q. And what did you say?</p> <p>25 A. I said we would think about it and see how our</p>	Page 79	Page 81

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1 the summer -- during the period of time. So they had it
2 online, which -- Digital Gadgets did the fulfillment.

3 **Q.** I'll show you next an e-mail chain Bates
4 stamped 244 through 246.

5 I'll have that marked as Lu 6.

6 (Defendant/Counter-Claimant's Exhibit
7 Lu 6 was marked for identification by
8 the Court Reporter, and a copy is
9 attached hereto.)

10 THE WITNESS: Okay.

11 BY MR. LAZARUS:

12 **Q.** Do you see that, in this e-mail chain, the red
13 comments are yours?

14 **A.** Correct.

15 **Q.** And do you see that, at Page 244, towards the
16 bottom, you write, "Also, these are goods that I
17 could have sold to my other accounts, and
18 I've given you guys a lower cost for
19 servicing QVC"?

20 Do you see that?

21 **A.** Mm-hmm.

22 **Q.** What do you mean, that you gave them a lower
23 cost for servicing QVC?

24 (Interruption in proceedings due to cell
25 phone.)

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1 MR. LAZARUS: I'll call you back.

2 THE WITNESS: I offered them a better cost to
3 continue to service QVC.

4 BY MR. LAZARUS:

5 **Q.** And how were they servicing QVC?

6 **A.** Drop-shipping.

7 **Q.** What did you mean when you used the expression
8 "servicing"?

9 **A.** "Servicing" is drop-shipping, because you're a
10 drop-ship vendor or not a drop-ship vendor.

11 **Q.** The same exhibit, Bates Stamp Page 244 -- 245.
12 Again your red comment, beginning, "As I've been up
13 front with you."

14 "As I have been upfront with you and told
15 you that I was going to visit QVC, and we
16 want to lay to rest all these claims and
17 update the buyers the currently situation
18 (sic) with the ITC lawsuit and all the
19 legal issues surrounding the hoverboards."

20 What were you referring to?

21 **A.** The ITC lawsuit is a -- it is a case of --
22 surrounding Chic suing all the copycats in the market
23 making hoverboards.

24 **Q.** What were you approaching or going to go to QVC
25 about?

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1 **A.** Well, explaining to them that -- the legal
2 process and how the progress of the case is going for
3 Chic and their -- and their -- how they're holding up
4 with their patent against all the copycats.

5 **Q.** In the same portion at Bates stamp Page 245,
6 you continue, "and also pitch the new Model F and K2
7 Mini. As I have told you, I am there to
8 discuss the product, either Digital Gadget
9 (sic) or Interworks sells to QVC is not my
10 concern."

11 Do you see that?

12 **A.** Mm-hmm.

13 **Q.** What was that in reference to?

14 **A.** It's in reference to us pitching the new
15 products to QVC; and whether QVC wants to buy directly
16 from Interworks for the store, or we can be set up as a
17 direct vendor at the time, or Digital Gadgets can
18 also -- we can allow Digital Gadgets to sell the Model F
19 and K2, the new products, to QVC as a drop-ship vendor.

20 **Q.** And was it your contemplation that, while
21 Digital Gadgets was drop-shipping QVC, you would
22 simultaneously be shipping direct to their DC?

23 **A.** Could be, yeah.

24 **Q.** Did you ever agree with Digital Gadgets that,
25 for so long as they were drop-shipping QVC, you would

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1 not ship direct to the QVC --

2 **A.** No.

3 **Q.** -- DC?

4 **A.** No.

5 **Q.** What -- why would QVC need both sources of --

6 **A.** QVC don't -- I'm sorry. Go ahead.

7 **Q.** -- of the hoverboard?

8 **A.** So QVC does not need both parties. Okay? So
9 for me, I can sell QVC directly, which -- they have to
10 have an air time. And with the air time, they would do
11 the -- their airing of the hoverboards. And then we
12 would, like the first round, ship the goods directly to
13 the DC, and they would send it out to the consumers.

14 Now, I can use Digital Gadgets. I can use
15 distributor A, B, C, D, E -- whoever I want to use. It
16 doesn't have to be Digital Gadgets. So I can assign
17 whomever I want to be the drop-ship vendor per QVC
18 wanting -- "Hey, we like to work with this guy," "this
19 guy," "this guy."

20 I can sell it to whomever I want. But
21 initially we were working with Digital Gadgets. So, you
22 know, we talked about how, if I'm going to sell the
23 product and if this has to go to a drop-ship, then I'll
24 allow them to sell it.

25 **Q.** You would allow Digital Gadgets to do the

<p>1 drop-ship --</p> <p>2 A. Correct.</p> <p>3 Q. -- because you did not want to do the</p> <p>4 drop-ship?</p> <p>5 A. No. Because we're not a certified drop-ship</p> <p>6 vendor. That's a whole different process.</p> <p>7 Q. What does that mean, "a certified drop-ship</p> <p>8 vendor"?</p> <p>9 A. So you have to apply to be a drop-ship vendor</p> <p>10 because the process labeling and that stuff is different</p> <p>11 than shipping it directly to a DC, because now you're</p> <p>12 shipping directly to a consumer on behalf of QVC so. We</p> <p>13 were not the drop-ship vendor at the time.</p> <p>14 Q. So when you say you're not a certified</p> <p>15 drop-ship vendor, you mean that QVC had not certified</p> <p>16 Interworks as a drop-ship vendor?</p> <p>17 A. Right. We do not have that part of the vendor.</p> <p>18 Q. And QVC, at the point in time of November or</p> <p>19 thereabouts of 2016, wanted drop-ship goods as opposed</p> <p>20 to shipments directly to their DC?</p> <p>21 A. Well, the second shipment which we used</p> <p>22 Digital Gadgets for was that -- because of the timing</p> <p>23 issue. And that's why we sold the goods to Digital</p> <p>24 Gadgets.</p> <p>25 Q. What about the next shipment?</p>	Page 86	Page 88
<p>1 A. Well, the second shipment was also the</p> <p>2 continuation. Because they needed more goods, and the</p> <p>3 products were selling; so Digital Gadgets continued to</p> <p>4 order.</p> <p>5 Q. What was the reason that you did not ship these</p> <p>6 later shipments direct to QVC?</p> <p>7 A. Because we were looking at the new models.</p> <p>8 MR. LAZARUS: I want to put in front of the</p> <p>9 witness a group of documents that was previously marked</p> <p>10 Asamoah 1 through Asamoah 5, which we've described on</p> <p>11 yesterday's transcript with Mr. Tu.</p> <p>12 Q. If you could take a look at that, please.</p> <p>13 A. Okay.</p> <p>14 Q. Mr. Lu, have you had an opportunity to review</p> <p>15 the documents in front of you, Asamoah 1 through 5?</p> <p>16 A. Yeah.</p> <p>17 Q. Okay. I want you to turn to the page -- fourth</p> <p>18 page in, which is marked Asamoah 2.</p> <p>19 A. Okay.</p> <p>20 Q. And do you know what this document is?</p> <p>21 A. Yeah. This is our invoice to Digital Gadgets.</p> <p>22 Q. Okay. And what product were you invoicing?</p> <p>23 A. High Roller Model C black and High Roller</p> <p>24 Model C white.</p> <p>25 Q. Do you see the Interworks document has a PL</p>	Page 87	Page 89
		<p>1 number, a PO number, in the left-hand columns?</p> <p>2 A. Correct.</p> <p>3 Q. Who assigned the PL number?</p> <p>4 A. That would be from Digital Gadgets.</p> <p>5 Q. What does that stand for?</p> <p>6 A. Purchase order number.</p> <p>7 Q. The PL number stands for the purchase order</p> <p>8 number?</p> <p>9 A. I'm sorry. The PL number is our sales order</p> <p>10 number.</p> <p>11 Q. Okay. So is there an internal document called</p> <p>12 a sales order?</p> <p>13 A. Yes.</p> <p>14 Q. And is it something that is printed, or is it</p> <p>15 maintained solely in the computer systems of Interworks?</p> <p>16 A. It is in the system.</p> <p>17 Q. And what --</p> <p>18 A. And it's -- it's also printed.</p> <p>19 Q. And what does it show on the sales orders?</p> <p>20 A. The same information that's on the invoice.</p> <p>21 Q. Okay. And this invoice, do you see that the</p> <p>22 terms state "Net 60 days"?</p> <p>23 A. Correct.</p> <p>24 Q. What does that mean?</p> <p>25 A. That means this invoice is due 60 days upon the</p> <p>1 ship date.</p> <p>2 Q. And if you turn, in the document, further on,</p> <p>3 and if you can find the document Bates stamped</p> <p>4 Digital Gadgets 199.</p> <p>5 A. Okay.</p> <p>6 Q. What is this document?</p> <p>7 A. That's a picking sheet.</p> <p>8 Q. And what is a picking sheet?</p> <p>9 A. A picking sheet is what we would put out for</p> <p>10 the shippers to pick the product, and then confirm that</p> <p>11 it's shipped the units that it was -- it was supposed to</p> <p>12 be packed.</p> <p>13 Q. And do you see on that document, one of the</p> <p>14 notations is "Consignment"?</p> <p>15 A. Mm-hmm.</p> <p>16 Q. What does that mean?</p> <p>17 A. Consignment means we assign the products to the</p> <p>18 customer, and they -- yeah, and then they pay the goods.</p> <p>19 Q. And then they what?</p> <p>20 A. They pay the goods as we ship the goods.</p> <p>21 Q. Okay. And did you enter into an arrangement</p> <p>22 with Digital Gadgets for consignment sales?</p> <p>23 A. We did not engage in a consignment deal with</p> <p>24 Digital Gadgets.</p> <p>25 There was a discussion of consignment under the</p>

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<p>1 condition and stipulation of Digital Gadgets providing 2 their financials to our factor to see how much credit 3 that they are creditworthy of (verbatim), in which we've 4 requested for two and a half months. And Charlie Tebele 5 would give us the runaround.</p> <p>6 And, also, the bank -- I'm going to use the 7 word "conspired" with Charlie, saying that they had 8 faxed the information numerous times and our insurance 9 company had never got anything. And we followed up; we 10 called. No response from anybody, and never was any 11 financials documents sent to our insurance company.</p> <p>12 And finally they had a credit reference from 13 Digital Gadgets's bank account. And this is prior to 14 Charlie telling us that he has got a gazillion dollars, 15 "Don't worry about financial." The bank statement came 16 back from Charlie's bank with only \$26,000. And I've 17 given them one -- almost a million dollars' worth of 18 products. So --</p> <p>19 Q. Before you made your shipments to 20 Digital Gadgets, did you -- did you do a credit check on 21 them?</p> <p>22 A. We did not do a credit check because of the -- 23 first of all, we didn't do the credit check because it 24 was very, very time-consuming that QVC needed the 25 product. And we rushed it. But Chris Mitchell and</p>	<p>1 declined.</p> <p>2 Q. Do you know a business, Cash Capital?</p> <p>3 A. Yes.</p> <p>4 Q. Who is Cash Capital?</p> <p>5 A. Cash Capital is our -- it's a lender.</p> <p>6 Q. And when were they your lender?</p> <p>7 A. I believe it's around 2016.</p> <p>8 Q. Are they still your lender today?</p> <p>9 A. No, they're not.</p> <p>10 Q. Do you have another lender today?</p> <p>11 A. No, I do not.</p> <p>12 MR. LAZARUS: Can we have this marked, please. (Defendant/Counter-Claimant's Exhibit 14 Lu 7 was marked for identification by 15 the Court Reporter, and a copy is 16 attached hereto.)</p> <p>17 THE WITNESS: Okay.</p> <p>18 BY MR. LAZARUS:</p> <p>19 Q. Do you recall receiving this notification on or 20 about July 10th of 2016?</p> <p>21 I would appreciate counsel not directing his 22 attention to specific portions of the document. I don't 23 think that's fair or appropriate.</p> <p>24 MR. HSU: Well, I'm looking at the very last 25 page, which I've never seen before. I'm not asking any</p>
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1 MR. HSU: Okay. Let's hear it. 2 MR. LAZARUS: Would the reporter read the 3 attempted question. 4 (Whereupon, the record was read back 5 by the Court Reporter as follows: 6 "Q. And what happened with that 7 judgment? 8 "A. That was settled. 9 "Q. When? 10 "A. It was settled, off my head, 11 around like April --") 12 MR. HSU: He just answered. He answered. 13 THE WITNESS: Can I get excused to the restroom 14 real quick? 15 MR. HSU: Sure. 16 (Brief recess.) 17 MR. LAZARUS: What was the last question? 18 (Whereupon, the record was read back 19 by the Court Reporter as follows: 20 "Q. And what happened with that 21 judgment? 22 "A. That was settled. 23 "Q. When? 24 "A. It was settled, off my head, 25 around like April --")	Page 102	1 income that comes in. 2 Q. And do you see that this lien filing is a 3 filing on all assets of the debtor? 4 A. Where is that? 5 Q. It's in the box number 4, "Collateral." 6 A. I was not aware of this filing. 7 Q. At the date that you commenced this lawsuit 8 against Digital Gadgets, had you settled your claims 9 with Cash Capital? 10 A. Yes. 11 Q. So by the time this lawsuit was started in July 12 of 2017, you had settled with Cash Capital? 13 A. No. The Cash Capital was settled in and around 14 April of 2018. 15 Q. While the lawsuit was pending? 16 While this lawsuit was pending? 17 A. Yes. 18 Q. Okay. So when the lawsuit was commenced, by 19 Interworks, against Digital Gadgets, were you aware that 20 Cash Capital owned the receivables on which you were 21 suing? 22 A. I was not aware of that. 23 Again, if Digital Gadgets paid the receivables 24 to them, then it would have probably been cleared a long 25 time ago.	Page 104
1 BY MR. LAZARUS: 2 Q. April of what year? 3 A. 2018. 4 Q. '18? 5 A. Yes. 6 Q. At the time this lawsuit was commenced, had -- 7 are you aware of whether Cash Capital had filed a lien 8 on all of the assets of Interworks? 9 A. I'm not aware of who or when they sent any 10 liens out. 11 MR. LAZARUS: Can we have this marked as the 12 next exhibit. I apologize. I just want to identify it. 13 Tu 9 is Bates stamped CCG 1. Thank you. 14 (Defendant/Counter-Claimant's Exhibit 15 Tu 9 was marked for identification by 16 the Court Reporter, and a copy is 17 attached hereto.) 18 BY MR. LAZARUS: 19 Q. Have you ever seen this document before? 20 A. No, I have not. 21 Q. Okay. Have you -- do you have any 22 understanding of what a UCC financing statement is? 23 A. To my understanding, an UCC filing is the 24 position in which the financial institute holds the -- 25 what do you call it? The first rights of whatever	Page 103	1 MR. LAZARUS: Helena, could you put the 2 original exhibits in front of the witness. 3 Q. Okay. If you turn to Tu 6 in the package of 4 the original exhibits in front of you, it's an ACORD 5 Certificate of Liability Insurance. 6 MR. HSU: Tu 6. 7 THE WITNESS: Okay. 8 BY MR. LAZARUS: 9 Q. Have you ever seen Tu 6 before today? 10 A. Yes. 11 Q. Okay. What is Tu 6? 12 A. Tu 6 is a certificate of liability insurance. 13 Q. Okay. And if you'll turn to the next document 14 in the package in front of you, which is Tu 7. 15 MR. HSU: This is Tu 7. 16 BY MR. LAZARUS: 17 Q. Have you ever seen that document before? 18 A. I believe so. 19 Q. Okay. What is this document? 20 A. It's a certificate of liability insurance. 21 Q. Okay. And do you see that this document names 22 Digital Gadgets as a certificate holder? 23 A. Correct. 24 Q. And who caused this document to name 25 Digital Gadgets as a certificate holder?	Page 105

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<p>1 A. We -- we contacted our insurance company to --</p> <p>2 Q. What was the reason that you contacted the</p> <p>3 insurance company so as to name Digital Gadgets as a</p> <p>4 certificate holder?</p> <p>5 A. We added them as an additional insured.</p> <p>6 Q. What was the reason you added them as an</p> <p>7 additional insured?</p> <p>8 A. Well, that is the -- pretty much part of the</p> <p>9 process with all the retail accounts and distributors.</p> <p>10 You know, we add them into our umbrella product</p> <p>11 liability insurance.</p> <p>12 Q. Is that something that's required by the</p> <p>13 retailers?</p> <p>14 A. It's required by retailers and distributors.</p> <p>15 Q. Okay. And QVC -- did QVC require that you add</p> <p>16 Digital Gadgets as a certificate holder under your</p> <p>17 policy?</p> <p>18 A. No.</p> <p>19 Q. Did Digital Gadgets require that you add them</p> <p>20 as a certificate holder under your insurance --</p> <p>21 A. Yes.</p> <p>22 Q. -- policy?</p> <p>23 A. Yes.</p> <p>24 Q. And did you agree to do that?</p> <p>25 A. I added them.</p>	<p>1 A. No.</p> <p>2 Q. -- Digital Gadgets?</p> <p>3 A. No, not for Digital Gadgets and not for any of</p> <p>4 my accounts.</p> <p>5 Q. I want to go back to the documents that are</p> <p>6 Bright Asamoah exhibits, 1 through 5, if we can.</p> <p>7 MR. HSU: We're looking at the invoices; right?</p> <p>8 Asamoah --</p> <p>9 MR. LAZARUS: Yes.</p> <p>10 Q. Okay. And I'd ask you to turn to Asamoah 5,</p> <p>11 which has Bates stamp Interworks 472.</p> <p>12 A. Okay.</p> <p>13 Q. Do you see that Asamoah 5, Bates Stamp</p> <p>14 Interworks 472, is a purchase order?</p> <p>15 A. Mm-hmm.</p> <p>16 Q. And do you see that it's a purchase order from</p> <p>17 Digital Gadgets to Interworks?</p> <p>18 A. Correct.</p> <p>19 Q. Do you see that the purchase order has terms</p> <p>20 and conditions?</p> <p>21 A. Yes.</p> <p>22 Q. Are you familiar with those terms and</p> <p>23 conditions?</p> <p>24 A. The purchase order terms and conditions?</p> <p>25 Q. Yes, sir.</p>
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